In the Supreme Court of the United States

OCTOBER TERM, 1970

No. 1055

TRAVIS GRANT ASHBROOK, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

After a jury-waived trial in the United States District Court for the Central District of California, petitioner was convicted of unlawful importation of marihuana in violation of 21 U.S.C. 176(a). The court of appeals affirmed *per curiam* (Pet. App. A).

The stipulated facts showed that petitioner shipped a number of items from Karachi, West Pakistan to Los Angeles International Airport, naming himself as the consignee; included among the items were two surfboards containing 43 lbs. of marihuana. On the day the shipment arrived a search by customs agents revealed the presence of the marihuana. The following day petitioner called for the goods and, with the aid

413-129—70

of two other co-defendants, transported the surfboards by car and truck to a point in Riverside County, California where he and his companions were arrested by customs agents.

Petitioner's sole contention is that the requirement in 21 U.S.C. 176(a), that marihuana be presented to customs officers for inspection prior to its entry into the United States, violates his Fifth Amendment privilege against self-incrimination. This contention has been consistently rejected. See, in addition to the cases cited in the opinion below (Pet. App. A 1–2), *Walden* v. *United States*, 417 F. 2d 698 (C.A. 5). As these decisions indicate, had petitioner complied with the statute and declared the marijuana at the border, it would have been confiscated before entering the United States and thus petitioner would not have been exposed to a real and appreciable hazard of self-incrimination under state law.

It is therefore respectfully submited that the petition for a writ of certiorari should be denied.

ERWIN N. GRISWOLD,
Solicitor General.

JANUARY 1971.

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